

## TAPING AND/OR RECORDING COMMUNICATIONS

Effective: February 26, 1993  
Revised: March 10, 2002  
Owner: Christopher Heim

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### PURPOSE

To outline the policy on taping and/or recording communications between State employees.

### SCOPE

This policy applies to all State employees.

### BACKGROUND

Both the statutes 18 U.S.C § 2510 et seq. and Utah Code Ann. § 77-23a-1 et seq. (1990) make it unlawful to intentionally or knowingly intercept or record any wire, electronic, or oral communication unless a specific exception is found within the statute. The exception applicable is found in Utah Code Ann. § 77-23a-4(7)(a), which provides that as long as the interception of recording is "under color of law" and one of the parties to the conversation consents, it would not be unlawful to intercept and record the conversation.

However, under an executive order dated January 27, 1993, a department, division, office, bureau, or other agency of the state may not act "under color of law" to tape or record communications *without the express approval of the Governor*.

### POLICY

The Division of Information Technology Services may not:

1. implement a policy of taping or recording communications without the express approval of the Governor; and,
2. tape or record communications between State employees and other persons except in accordance with a taping or recording policy expressly approved by the Governor upon the recommendation of the Recording Policy Review Board.



This policy (i.e., executive order) does not apply to monitoring or taping communications pursuant to a court order, writ of subpoena, or other legitimate law enforcement objectives.

